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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Legislative Counsel
7D35 HQ

EXTENSION

NO.

DATE

5 August 1975

STAT

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. DDA
DDG

2. YCCS
D/P

3. D/S
D/F

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The attached draft bill and list of "Payments Possibly Subject to Section 459" represents the Administration's attempts to clarify Section 459 of the Social Security Act Amendments of 1974 which subjected federal employees to garnishment proceedings for alimony and child support obligations. The Justice Department has drafted the bill to completely replace the present Section. Regulations will also be issued and these, we hope, will consider the Agency's more parochial interests. OMB wants to move rapidly on the bill, and we have been asked to comment on the Justice Department bill by August 7th. I believe I can stretch our response to Monday, August 11th, but need your views on the draft bill by COB August 7th. Please relay your views to me verbally

. Thank you.

Assistant Legislative Counsel

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Dec 7-1753

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 23, 1975

LEGISLATIVE REFERRAL MEMORANDUM

To: Legislative Liaison Officer

Dept. of Agriculture	Energy Research and Development Admin.
Dept. of Commerce	Federal Energy Administration
Dept. of Defense	Federal Trade Commission
Dept. of Health, Education, and Welfare	General Services Administration
Dept. of Housing and Urban Development	National Aeronautics and Space Admin.
Dept. of the Interior	Postal Service
Dept. of Labor	Railroad Retirement Board
Dept. of State	Tennessee Valley Authority
Dept. of Transportation	U.S. Information Agency
Dept. of the Treasury	Veterans Administration
ACTION	General Accounting Office
Agency for International Development	Administrative Office of the U.S. Courts
Central Intelligence Agency ✓	Domestic Council Committee on the Right of Privacy
Civil Service Commission	Environmental Protection Agency

Subject: Justice draft bill "To revise the statute authorizing the garnishment of payments of remuneration for employment for the purpose of complying with certain child support and alimony payment orders"

Separate list of "Payments Possibly Subject to Section 459"
(We would like your views on coverage of items included on this list under Section 459 and on items which should be added for the Congress' consideration)

The Office of Management and Budget would appreciate receiving the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Special circumstances require priority treatment and accordingly your views are requested by Thursday, August 7, 1975.

Questions should be referred to Bill Nichols (395-4550), Eileen Friars (395-5611, or Jeffrey Weinberg (395-4860), the legislative analyst in this Office.

Naomi R. Sweeney

Naomi R. Sweeney, for
Assistant Director for
Legislative Reference

Enclosures

A. "Traditional" Remuneration for Federal Employment

1. current salary payments (civilian and military)
2. normal and disability retirement benefits (civilian and military)
3. severance pay *fair?*
4. bonuses (as for production worker performance)

B. Other Federal Employment-Related Payments

1. veterans benefit payments (construed as a benefit for previous government service)
2. unemployment compensation to former Federal employees and ex-servicemen
3. FECA disability payments
4. ACTION volunteer allowances and stipends (Peace Corps, VISTA, Foster Grandparents, etc.)
5. Job Corps stipends
6. Federal income tax refunds of Federal employees

C. Private Employment-Related Federal Payments

1. Social Security benefits (cash and medicare)
2. Railroad retirement benefits
3. Longshoremen's and harbor workers' disability benefits
4. Black lung compensation payments
5. unemployment compensation for private sector employees paid from general revenues

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----- CONGRESS
----- SESSION

S. _____

(NOTE: - Fill in all blank lines except
those provided for the date and
number of bill.)

IN THE SENATE OF THE UNITED STATES

Mr. _____

introduced the following bill; which was read twice and referred to the Committee on

A BILL

To revise the statute authorizing the garnishment of payments of remuneration for employment for the purpose of complying with certain child support and alimony payment orders

(Insert title of bill here)

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled, that*
Section 459 of the Social Security Act (42 U.S.C. 659)
is amended to read as follows:

§ 459(a). Notwithstanding any other provision of law, moneys the entitlement to which is based upon remuneration for employment due from, or payable by, the United States of America or an agency thereof to any individual (except judges appointed pursuant to Article III of the Constitution) shall be subject to legal process brought for the enforcement, against such individual, of his legal obligation to provide child support or make alimony payments as if the United States were a private person.

(b) Regulations not inconsistent with this section shall be promulgated to implement this section and to facilitate compliance with legal process for the payment of child support and alimony. The _____

shall issue such regulations for agencies within the Legislative Branch and individuals receiving remuneration for employment therefrom. The _____

_____ shall issue such regulations for agencies within the Judicial Branch and individuals receiving remuneration for employment therefrom. The Civil Service Commission shall issue such regulations for all other agencies and individuals receiving remuneration for employment from the United States except as hereafter provided.* The Postmaster General shall issue regulations for the Postal Service and all individuals receiving remuneration for employment therefrom. The Chairman of the Civil Service Commission may delegate authority for the issuance of the regulations required by this subsection with respect to payments of remuneration for employment not related to employment with the Federal Government, if the agency head making such payments expressly requests such authority and the Chairman of the Civil Service Commission determines that such a delegation is in the best interests of the affected agency and the recipients of such remuneration for employment.]

(c) Service of legal process brought pursuant to this section for the enforcement of an individual's obligation to provide child support or make alimony payments shall be effected as herein provided. Service of such process shall be accomplished by certified or registered mail return receipt requested or by personal service upon the appropriate agent for service of process designated to receive such process for the agency making the payments sought to be reached. If an agent for service of process has not been designated for an agency, service may be made upon the head of the agency. Such process shall specify the type of payment sought to be reached and shall be accompanied by sufficient data to permit prompt identification of the individual receiving remuneration for employment and his account on the

agency's records. Each agency head shall publish in

DCI?
responsibility
of separate
regulations
CA

Service of process
certified or registered
mail or personal
service on
designated agency
rep.

Civil Service Commission pursuant to this section (1) his designation of an agency or agents for service of process by title of position, address and telephone number, and (2) ^{any probs} the data required to permit prompt identification of the individual and his account. If an individual is receiving remuneration for employment from more than one agency, separate process shall be served on each agency. A copy of the legal process served upon an agency shall be served by one of the methods provided herein upon the individual whose remuneration for employment is sought to be reached in sufficient time for the individual to challenge such action with the appropriate court or administrative authority, if he wishes to do so. Proof of such service or of the reason such service could not be effected on the individual concerned will be served upon the agency affected and the agency may delay its response to legal process until such proof is served on it.

(d) An agency head may respond to relevant interrogatories, if authorized by the law of the state in which the legal process will issue, prior to formal issuance of legal process, upon a showing of the applicant's entitlement to child support or alimony payments from the individual identified as provided in subsection (c). No agency employee whose duties include responding to such interrogatories shall suffer civil or criminal liability or disciplinary action under the Privacy Act of 1974 (Public Law 93-579) or any other law by reason of such disclosure.

(e) Agency heads shall have at least thirty days from the effective date of service within which to respond to interrogatories or to legal process seeking the payment of child support or alimony obligations from remuneration for employment.

Individual must also be served

interrogatories

30 days to respond to interrogatories

(f) Agencies shall not be required to vary their normal pay and disbursement cycles to comply with legal process for the payment of child support and alimony obligations.

State law
may SDG not
unless individual
served under (c)

(g) An individual whose remuneration for employment is subject to legal process for the payment of child support or alimony pursuant to this section shall be entitled to the deductions and exemptions authorized by the law of the state in which the order for the payment of child support or alimony is initially entered. If such an individual is not served with process as required by subsection (c) hereof, not more than fifty percent of his net remuneration for employment payable by the agency may be withheld to honor legal process. For the purpose of determining net remuneration for employment there shall be deducted from the gross remuneration for employment due for a particular normally observed payment period, if actually deducted, (1) proper State, Federal and local income tax withholdings for the individual counting the correct number of dependents, (2) health insurance premiums, (3) normal retirement deductions without supplementary coverage, and (4) life insurance premiums normally deducted for the salary or pay level involved without supplementary coverage.

(h) Payments pursuant to legal process regular on its face, after receipt of proof that the individual concerned was also served as provided in subsection (c) hereof, shall be valid dispositions of remuneration for employment if the individual does not successfully challenge such legal process, and the United States, the agency and the persons making and authorizing such payments shall not be liable for having made such payments or be required to make duplicate payments.

Removal or transfer

(i) In the event an agency is served with legal process, from more than one court or source, seeking to reach the remuneration for employment of an individual, such proceedings may be removed or transferred of right to any appropriate single United States district court. Removal or transfer shall be accomplished in accordance with chapter 89 of title 28 of the United States Code and 28 U.S.C. 1404, insofar as these statutes may be appropriate and are not inconsistent with this section, and the proceedings shall continue as consolidated proceedings. Administrative proceedings referred to in subsection (j)(3) shall be subject to removal pursuant to this subsection in the same manner as court proceedings. The district court shall have authority to allocate payments of remuneration of pay or determine priorities of payment as may be appropriate in the circumstances.

(j) The following definitions shall govern the application of this section.

(1) The term "agency" includes all departments, administrations, and instrumentalities in the Executive Branch of the United States of whatsoever kind, all independent establishments of the United States, including the Postal Service, and all administrations, authorities, boards, commissions, councils, services and instrumentalities of the Federal Government of whatsoever kind, all wholly-owned Federal corporations, the Congress of the United States including the General Accounting Office, the Library of Congress, the Government Printing Office and the Botanic Garden, and the Federal courts including the Administrative Office of United States Courts and the Federal Judicial Center.

(2) The word "alimony" shall include spousal support no matter how denominated that arises out of any decree, order or judgment providing spousal or child support. The words "child support" and "alimony" may include court-ordered attorneys' fees and court costs ordered by a court of competent jurisdiction.

(3) The term "legal process" means an order, writ, summons or other similar process issued from a court of competent jurisdiction within the United States, in the nature of or in connection with garnishment, attachment, or involuntary assignment, against the United States of America to obtain the remuneration for employment payable to an individual, when the purpose of such garnishment, attachment, or assignment is the satisfaction of a court-ordered child support or alimony obligation. The term "legal process" may include an order or garnishment-type process issued by State or local administrative authority when specifically authorized by State statute and such procedure is applicable alike to private employers. Such process shall not be considered "legal process" and will not be honored if the individual, whose remuneration for employment is sought to be reached, is not served with a copy of the process served on the agency in accordance with subsection (c).

(4) The term "remuneration for employment" means compensation payable for personal services performed by an individual denominated as wages, salary or pay, and includes periodic payment of military retired pay and annuities under contributory retirement systems including benefits payable under title II of the Social Security Act, entitlement to which is

based on employment. Monetary payments intended to reimburse or defray expenses incurred by individuals in executing duties associated with their employment by the United States or any agency thereof are not included within the meaning of the term "remuneration for employment". The term "remuneration for employment" does not include gratuitous benefit payments, compensation or benefits payable for injury or illness, or unemployment compensation benefits.

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(pmb)